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08 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09 UNITED STATES OF AMERICA,)
10) Case Nos.: CR99-422, CR00-392
11 Plaintiff,)
12 v.) REPORT AND RECOMMENDATION
13 JAMIE P. PITMAN,) OF U.S. MAGISTRATE JUDGE
14 Defendant.) AS TO ALLEGED VIOLATIONS
OF SUPERVISED RELEASE
_____)

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16 An evidentiary hearing on a supervised release revocation in these cases was scheduled
17 before the undersigned Magistrate Judge on April 26, 2005. The United States was represented
18 by Assistant United States Attorney Donald Currie, and the defendant by Mr. Robert Leen. The
19 proceedings were recorded on cassette tape.

20 The defendant had been sentenced on or about November 17, 2000, by the Honorable
21 John C. Coughenour of charges of bank fraud and money laundering in Case No. CR99-422, and
22 charges of credit-card fraud and bank fraud in Case No. CR00-392. The defendant was
23 sentenced to 50 months of custody and five years of supervised release.

24 The conditions of supervised release included the requirement that the defendant comply
25 with all local, state, and federal laws, and with the standard conditions. Other special conditions
26 included that the defendant submit to mandatory drug testing pursuant to 18 U.S.C. § 3563(a)(5)

01 and 18 U.S.C. § 3583; participate as instructed in a program for treatment of narcotic addition,
02 drug dependency, or substance abuse, which may include testing to determine if the defendant
03 has reverted to the use of drugs or alcohol; abstaining from the use of alcohol, and other
04 intoxicants during the term of supervision; and restitution in the amount of \$716, 441.17, to be
05 paid in monthly installments of \$50.00.

06 In an application dated March 8, 2005, U.S. Probation Officer Brian H. Rogers asserted
07 the following violations of the conditions of supervised release:

08 (1) failing to submit a urine sample on February 28, 2005, in violation of special
09 condition No. 3 which requires that Mr. Pitman submit to urine testing when directed to do so;

10 (2) failing to submit regular monthly restitution payments in violation of special
11 condition No. 6.

12 The defendant denied the alleged violations. At the evidentiary hearing, the sole witness
13 was Brian H. Rogers, the U.S. Probation Officer assigned to Mr. Pitman's case. As to the first
14 claimed violation, Probation Officer Rogers testified that he spoke to defendant Pitman and they
15 agreed to meet on February 28, 2005. At that meeting, Mr. Pitman and Mr. Rogers had a
16 discussion regarding the past failures to make restitution. At this meeting Officer Rogers also
17 advised Mr. Pitman that he would require Mr. Pitman to provide a urine sample that day. Mr.
18 Pitman attempted on two occasions to provide a urine sample, but was unable to provide a
19 sample of sufficient quantity to check for unauthorized drugs. Officer Rogers directed Mr.
20 Pitman to stay in the Probation Office until an adequate sample could be supplied. Mr. Pitman
21 did not do so. Instead, he left without providing the necessary sample. He had been in the office
22 for approximately one and one-half hours prior to the time that he left. This was the first time
23 that Mr. Pitman been asked to submit a urine sample and walked out. Because Mr. Pitman left
24 the Probation Office before providing an adequate sample after being specifically advised not to
25 leave before doing so, it is recommended that the Court find that violation No. 1 was established.

26 As to the second claimed violation, Mr. Pitman failed to make his \$50.00 monthly

01 payments for the months of September, October, November, and December of 2004, and January
02 of 2005. During the Christmas holiday period in 2004, Mr. Pitman wanted to go to California,
03 and discussed this with Probation Officer Rogers. The trip was authorized if Mr. Pitman made
04 a payment of two months on his back restitution. Mr. Pitman appeared at the office of the Clerk
05 of Court and used a debit card to make a \$100.00 payment. After doing so, and after receiving
06 a receipt for the payment which he delivered to the Probation Officer, the Clerk of the Court
07 discovered that payments by debit card were not authorized. As a result, the charges were
08 reversed. Mr. Pitman subsequently failed to tender the \$100.00 in reversed charges. In addition,
09 Mr. Pitman has not made the payments for December 2004, and January 2005.

10 In February 2005, Mr. Pitman had a monthly income of approximately \$940.00 per month
11 from social-security disability income, and \$148.00 per week of unemployment compensation,
12 for a total monthly income of approximately \$1,532.00. Therefore, it is recommended that Mr.
13 Pitman be found to have failed to make regular monthly restitution payments in violation of
14 special condition No. 6.

15 A disposition hearing is scheduled before the Honorable John C. Coughenour on
16 May 27, 2005, at 9:00 a.m. Pending a final determination by the Court, defendant remains at
17 liberty subject to the terms of his probation.

18 DATED this 28th day of April, 2005.

19
20 /s/ JAMES P. DONOHUE
21 United States Magistrate Judge

22 cc: District Judge: Honorable John C. Coughenour
23 ASA: Mr. Donald M. Currie
24 Defendant's attorney: Mr. Robert Leen
25 Probation officer: Mr. Brian H. Rogers
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